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7 **UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

8 BOARD OF TRUSTEES OF THE EMPLOYEE
9 PAINTERS' TRUST, *et al.*,

CASE NO.: 2:24-cv-00589-APG-MDC

10 Plaintiffs,
11 vs.

**JOINT STATUS REPORT AND
STIPULATION TO STAY
PROCEEDINGS (Third Request)**

12 J. E. SIMAS FLOORS, INC. d/b/a JE SIMAS
13 FLOORS, *et al.*,

14 Defendants.

15 The above-captioned Parties, each acting by and through their undersigned counsel,
16 state the following:

17 **A. BACKGROUND**

18 1. Plaintiffs filed their original Complaint on March 27, 2024 [ECF. No. 1].
 19 2. Plaintiffs filed their First Amended Complaint on April 11, 2024 [ECF No. 5].
 20 3. Plaintiffs completed service of process of Defendant American Contractors
 21 Indemnity Company on April 19, 2024. *See* ECF No. 9.

22 4. Plaintiffs completed service of process of Defendant Karen Beth Fleischmann
 23 on April 23, 2024. *Id.*

24 5. Plaintiffs completed service of process of Defendants J. E. Simas Floors, Inc.
 25 d/b/a JE Simas Floors ("JE Simas"), James Edward Simas and Taylor Simas Samms on May
 26 20, 2024. *Id.*

1 6. Plaintiffs filed the Affidavits of Service for the Defendants on June 14, 2024. *Id.*

2 7. None of the Defendants have filed responsive pleadings. *See* Docket, generally.

3 8. The Parties have not yet exchanged Initial Disclosures or participated in a 26(f)

4 Conference; however, the Parties have begun initial discussions of the facts underlying the case

5 and the claims and defenses asserted herein and have developed a preliminary plan for moving

6 this case forward, as set forth below.

7 9. This case centers on alleged fringe benefit payment obligations arising from the

8 Northern Nevada Floor Covering Master Agreement (“CBA”) between the International Union

9 of Painters and Allied Trades District Council 16 (“Union”) and Defendant JE Simas.

10 10. The Plaintiffs allege that the Defendants owe fringe benefit contributions,

11 interest, liquidated damages and other amounts discovered through a payroll compliance review

12 of JE Simas’s payroll and related records (“Audit”) for the period April 1, 2017 to December

13 31, 2020 (“First Audit Period”).

14 11. JE Simas disputes the Auditor’s findings for the First Audit Period.

15 12. The Plaintiffs have been advised that JE Simas closed its business on or about

16 September 30, 2023.

17 13. The Plaintiffs claim the right to a second audit (the “Second Audit”) for the

18 period of January 1, 2021 through September 30, 2023 (“Second Audit Period”).

19 14. The Parties filed a Stipulation to Stay Proceedings on May 24, 2024 [ECF No.

20 7].

21 15. The Court issued its Order granting the Stipulation to Stay Proceedings on May

22 28, 2024, in which the Court ordered, *inter alia*, that all discovery dates and deadlines would be

23 stayed through August 24, 2024, to allow: (a) JE Simas to provide to the Plaintiffs certain

24 documents to conduct the Second Audit; (b) the Audit of the Second Audit Period to

25 commence; (c) the Parties to discuss further JE Simas’s objection to, and availability of

26 additional Audit documents that the Plaintiffs have requested; and (d) the Parties the

27 opportunity to negotiate a global resolution of the Parties’ claims and defenses.

1 16. On or around June 6, 2024, JE Simas provided initial documents for the Second
2 Audit, and the Plaintiffs' Auditor commenced the Second Audit thereafter.

3 17. The Plaintiffs' Auditor has determined, after due diligence and reasonably
4 commencing the Second Audit with the documents provided, that the Second Audit cannot be
5 reasonably completed without additional documents from JE Simas.

6 18. The Plaintiffs provided a list of the necessary additional documents for the
7 Second Audit to JE Simas ("Additional Second Audit Documents").

8 19. On August 12, 2024, counsel for the Parties met and conferred to discuss and
9 resolve in good faith the issues regarding the Second Audit.

10 20. JE Simas agreed to request from third parties the Additional Second Audit
11 Documents and believed additional time would be required to obtain such documents.

12 21. On August 13, 2024, the Parties filed a Stipulation to Stay Proceedings (Second
13 Request) [ECF No. 10].

14 22. The Court issued its Order granting the Stipulation to Stay Proceedings (Second
15 Request) on August 14, 2024, in which the Court ordered, *inter alia*, the following:

16 a. All discovery dates and deadlines would be stayed through November
17 12, 2024 to allow: (i) JE Simas to request from third parties certain additional
18 documents to conduct the Second Audit on or before August 19, 2024 ("Second Audit
19 Documents Request Deadline"); (ii) the Audit of the Second Audit Period to continue;
20 (iii) the Parties to discuss further JE Simas's objection to, and availability of additional
21 Audit documents that the Plaintiffs have requested; and (iv) the Parties the opportunity
22 to negotiate a global resolution of the Parties' claims and defenses; and

23 b. No later than October 29, 2024, the Parties will meet and confer and file
24 a Joint Status Report to update the Court on the status of the Audit and how the Parties
25 intend the case to proceed.

26 **B. STATUS**

27 1. On October 30, 2024, counsel for the Parties met and conferred to discuss the

1 possibility of global resolution of the Case and the status of the Additional Second Audit
2 Documents. The Parties were unable to reach a resolution agreement.

3 2. JE Simas provided the Additional Second Audit Documents that were available
4 to it on October 31, 2024.

5 3. The Trusts believe that additional time is required to conduct the Second Audit
6 and the Parties have agreed to extend the stay of this Case.

7 **C. STAY OF PROCEEDINGS**

8 1. The Parties agree to stay this Case, including all discovery dates and deadlines
9 through January 15, 2024, for the Trusts to conduct the Second Audit and for the Parties to
10 negotiate a global resolution of the Parties' claims and defenses.

11 2. The Parties have discussed requesting the Court order a pre-discovery early
12 settlement conference with a Magistrate Judge pursuant to LR 16-5; counsel will readdress a
13 potential settlement conference at a meet and confer by no later than **December 13, 2024**.

14 3. This is the third request to stay these proceedings.

15 4. A stay of these proceedings will not prejudice any party and is not sought for
16 any improper purpose; rather this Stipulation is sought for the purposes of judicial economy
17 and to promote settlement.

18 5. The Parties agree that all case deadlines shall be stayed through **January 15,**
19 **2024.**

20 6. The Parties shall conduct two meet and confers: one no later than **December 13,**
21 **2024**, to reassess the possibility of a judicial settlement conference; and one no later than
22 **January 8, 2024**, to discuss and file a Joint Status Report to update the Court on the status of

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1 the Second Audit and any request for an Order to participate in a settlement conference with a
2 Magistrate Judge pursuant to LR 16-5.

3 **CHRISTENSEN JAMES & MARTIN, CHTD.**

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13 DATED: October 31, 2024

14 **SIERRA CREST BUSINESS LAW GROUP**

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23 *Counsel for the Defendants*

24 DATED: October 31, 2024

25 **IT IS SO ORDERED:**

26 
27 UNITED STATES DISTRICT JUDGE

28 DATED: November 1, 2024

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